



LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol, Room 446
415 S. Beretania Street
Honolulu, Hawaii 96813

Written Comments

SB544 SD1, HD1 Proposed RELATING TO NATURAL RESOURCES

Comments by the Legislative Reference Bureau
Charlotte A. Carter-Yamauchi, Acting Director

Presented to the House Committee on Finance

Wednesday, April 8, 2015, 2:00 p.m.
Conference Room 308

Chair Luke and Members of the Committee:

Good afternoon Chair Luke and members of the Committee, my name is Charlotte Carter-Yamauchi and I am the Acting Director of the Legislative Reference Bureau. Thank you for providing the opportunity to submit written comments on S.B. No. 544, S.D. 1, H.D. 1, Proposed, Relating to Natural Resources.

The purpose of this bill is to, among other things:

- (1) Establish, within the Department of Land and Natural Resources, a four-year redevelopment pilot project for the Kanoiehua industrial area and surrounding areas in South Hilo, Hawaii, to:
 - (A) Define the policies for the management of public lands in the Kanoiehua industrial area and surrounding areas in the district of south Hilo;
 - (B) Establish a plan for the designated area, including district-wide improvements, that is coordinated with state and county land use and planning policies; and
 - (C) Implement asset and property management concepts that can optimize income from the properties and evolve in response to changing principles of property administration;
- (2) Establish a planning committee for the Kanoiehua industrial area and surrounding areas in South Hilo, Hawaii, to:
 - (A) Serve as a policy-advising committee for the designated redevelopment district; and

- (B) Prepare a redevelopment plan for the designated redevelopment district, including proposed district development policies, district improvement programs, necessary public facilities, infrastructure needs, and proposed development guidelines and rules;
- (3) Require the Department of Land and Natural Resources to submit:
 - (A) A progress report of the pilot project, including analysis of the pilot project and recommendations on whether similar projects should be expanded to other counties, no later than twenty days prior to the convening of the 2017 Regular Session; and
 - (B) A final report on the operations and findings and recommendations on the pilot project, including any proposed legislation, no later than twenty days prior to the convening of the 2019 Regular Session; and
- (4) Require the Legislative Reference Bureau to review commercial leases and recommend changes to state leasing laws to modernize and update these laws to incorporate current best practices.

The Legislative Reference Bureau takes no position on this measure, but with regard to the commercial lease review aspect of the measure directed at the Bureau, the Bureau submits the following comments for your consideration.

The Bureau believes that, as currently drafted, the parameters are far too broad for it to accurately assess whether such a review can be conducted. For example, the measure does not provide guidance on which types of commercial leases are to be reviewed. The term "commercial leases" could foreseeably include equipment, land, and a number of other types of leases executed for commercial purposes. Furthermore, the measure provides no guidance with regard to determining "best practices in these property categories," and does not specify which property categories are to be reviewed. In trying to determine how "to modernize and update these [state leasing] laws to incorporate current best practices," additional direction would be needed to determine from which perspective "best practices" would be reviewed (e.g., the perspective of the lessor or lessee).

Finally, the Bureau has no expertise or experience in the area of real estate leasing. If the Legislature wishes us to do this, we would request that the measure be amended to include an appropriation and an exemption from chapter 103D, Hawaii Revised Statutes, to allow us to contract the services of a person knowledgeable in the area of commercial leasing.

Thank you again for this opportunity to provide written comments.

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
CARTY S. CHANG
Interim Chairperson

Before the House Committee on
FINANCE

Wednesday, April 8, 2015
2:00 P.M.
State Capitol, Conference Room 308

In consideration of
SENATE BILL 544, SENATE DRAFT 1, PROPOSED HOUSE DRAFT 1
RELATING TO NATURAL RESOURCES

Senate Bill 544, Senate Draft 1, Proposed House Draft 1, proposes to establish the four-year Kanoelehua Redevelopment Pilot Project, and directs the Department of Land and Natural Resources (Department) to establish a planning committee to serve as a policy-advising board for the redevelopment district. **The Department opposes this bill for the following reasons.**

The bill creates an additional layer of bureaucracy in government

The bill directs the Department to establish a redevelopment district in the Kanoelehua Industrial Area of Hilo. Upon such designation, a nine-member planning committee is to be established by the Chairperson of the Department as a policy-advising committee for the district. The planning committee members, who serve without compensation, then select a committee chair from among the public members. The planning committee is to be attached to the Department for administrative purposes.

The planning committee would likely require a secretary and perhaps more staff for proper administration, as well as office equipment, supplies, and travel expenses for the nine committee members. There will be added expense for the committee to comply with the Chapter 92, Hawaii Revised Statutes, (HRS), sunshine law requirements. Further, the committee's actions may be subject to contested case hearings and appeals. The bill provides for a general appropriation in an unspecified amount to carry out the purposes of the measure, and it is therefore unclear whether the expense of maintaining the committee would be partially borne by the Department. A conservative budget for such a planning committee, including payroll, fringe benefits, hearing officer fees, and other costs and expenses, would be \$500,000 annually.

CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

DANIEL S. QUINN
INTERIM FIRST DEPUTY

W. ROY HARDY
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

The bill proposes an unnecessary, bureaucratic addition to the Department's operations. The Department has already procured a consultant for the Kanoelehua Industrial Area (KIA) to analyze market trends, and explore options for redevelopment and rehabilitation of specific parcels or areas. After 2013 Legislative Session, former Governor Abercrombie approved the formation of a Banyan Drive Task Force that has met a number of times to discuss many of the issues covered by the bill as they relate to the Banyan Drive area. The task force members include representatives from local businesses, the former executive director of the Big Island Visitors Bureau, the executive director of the 'Imiloa Astronomy Center of Hawaii, and representatives from the Hawaii County Mayor's Office and State legislators also attend the meetings. This informal task force has worked well and at limited expense to the State. The Department suggests that a similar approach could be used with respect to issues in the KIA.

There are practical problems with the bill

As noted above, the bill directs the Department to designate the Kanoelehua redevelopment district on public lands. As defined in Section 171-2, HRS, public lands exclude lands used as roads and streets. While the State owns some contiguous parcels in the KIA, it does not own or manage the roads, which often include utility lines and other infrastructure. Accordingly, to the extent the bill seeks to improve infrastructure in a given area, a redevelopment district designated by the Department would likely not include important infrastructure components. Rather, the district would be confined to the particular parcels under the Department's management.

The Department relies on the revenues from leases of public lands to fulfill its fiduciary duties

The bill authorizes the planning committee to make recommendations on the reduction or waiver of lease rents on any lease of public lands for any project in the development district that requires substantial improvements. The Department and Board of Land and Natural Resources (BLNR) are responsible for managing approximately 1.3 million acres of public lands comprised of sensitive natural, cultural and recreational resources. The Department's responsibilities include managing and maintaining the State's coastal lands and waters, water resources, conservation and forestry lands, historical sites, small boat harbors, parks, and recreational facilities; performing public safety duties (e.g., flood and rockfall prevention); issuing and managing leases of public lands (agriculture, pasture, commercial, industrial, and resort leases); maintaining unencumbered public lands; and enforcing the Department's rules/regulations.

To properly perform these fiduciary duties, the BLNR determined that the Department should utilize a portion of the lands it manages to generate revenues to support the Department's operations and management of public lands/programs. Annual lease revenues currently support the Special Land and Development Fund (SLDF), with revenues coming primarily from leases for commercial, industrial, resort, geothermal and other renewable energy projects.

The SLDF is a critical and increasingly important funding source for various divisions within the Department to deal with emergency response to natural catastrophe such as fire, rockfall, flood or earthquake and hazard investigation and mitigation. The SLDF also is critical for staff support of various programs and funding conservation projects on all state lands. It has also become an

important source of state match for federally funded endangered species and invasive species initiatives that otherwise would not go forward.

The authority to construct, improve, renovate and revitalize areas within the counties is already authorized under Section 46-80.5, HRS

The bill seeks to redevelop the infrastructure and facilities within the KIA. However, the bill is unnecessary because there are already existing laws and ordinances that provide the process and financing to make such improvements.

Section 46-80.5, HRS, authorizes the various counties to enact ordinances to create special improvement districts for the purpose of providing and financing such improvements, services, and facilities within the special improvement district as the applicable county council determines necessary or desirable to restore or promote business activity in the special improvement district. This is the same purpose sought by House Bill 1267, House Draft 1.

Under the authority of Section 46-80.5, HRS, the County of Hawaii, as an example, enacted Chapter 12 of the Hawaii County Code, which authorizes the County of Hawaii to create improvement districts to construct new, or improve existing infrastructure and facilities, including roadways and utility infrastructure and improvements. It should also be noted that the responsibilities for maintaining such improvements within the proposed redevelopment districts are already vested with the County of Hawaii. Most, if not all, of the public roadways and utility infrastructure within any potentially designated district boundaries have been dedicated to the County.

Existing law allows for lease extensions under certain conditions

To the extent the bill is intended to facilitate the extension of existing State leases, the Department would point out that Act 219 Session Laws of Hawaii (SLH) 2011 and Act 207 SLH 2011 already provide for the extension of leases under certain conditions. Act 219 allows hotel or resort leases to be extended for an additional term of up to 55 years if the lessee commits to investing at least 50% of the value of existing improvements in renovations to the property. The BLNR has approved two lease extensions under Act 219. Act 207 allows for the extension of commercial, industrial and other leases up to an aggregate term (original term plus extension) of up to 65 years if the lessee requires mortgage financing or self-finances substantial improvements to the property. The BLNR has approved approximately twelve lease extensions under Act 207. All such extensions are at the discretion of the BLNR.

Additional Basis Providing Justification for Holding this Bill:

The Constitution limits the lawmaking authority of the legislature to general laws, and prohibits any form of special legislation or special interest legislation. The Department is concerned that this bill appears to border on special legislation and that in and of itself could justify holding this bill. In addition, the past Legislature in its historic wisdom and under well-established general law and policy, passed legislation vesting unto the BLNR the decision making authority over state lands via Chapter 171, HRS.

Finally, the Department notes that the title of this measure may be inconsistent with the substance of the bill. The title is “Relating to Natural Resources.” However, most bills affecting lands are titled “Relating to Lands” or “Relating to Public Lands.” Legal review of the appropriateness of the title may be warranted.

For the reasons above, the Department opposes this bill.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, April 07, 2015 12:04 AM
To: FINTestimony
Cc: darakawa@lurf.org
Subject: Submitted testimony for SB544 on Apr 8, 2015 14:00PM

SB544

Submitted on: 4/7/2015

Testimony for FIN on Apr 8, 2015 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
David Z. Arakawa	Land Use Research Foundation of Hawaii	Support	No

Comments: The Land Use Research Foundation of Hawaii SUPPORTS SB 544, SD1, relating to NATURAL RESOURCES, which authorizes appropriations for watershed management; equipment for fire, natural disaster, and emergency response; and forest and outdoor recreation improvements. Effective 7/1/2050. (SB 544, SD1)

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Testimony of Hawai'i Green Growth In Support of SB 544 SD1

House Committee on Finance

8 April 2015, 2:00pm, Room 308

Audrey Newman

Hawai'i Green Growth

P.O. Box 535 Ho'olehua, Hawai'i 96729

Hawai'i Green Growth is a voluntary partnership of more than 60 state, county, federal, business, and non-governmental leaders from energy, food production, natural resources, waste reduction, planning, green jobs, and other sectors who have come together to support a shared statewide commitment and tangible actions toward sustainability and a model green economy.

Aloha Chair Luke, Vice Chair Nishimoto, and Members of the Committee:

Hawai'i Green Growth (HGG) strongly supports SB 544 SD1 to authorize appropriations for watershed management; invasive species prevention, control, outreach, research, and planning; equipment for fire, natural disaster, and emergency response; and forest and outdoor recreation improvements.

HGG supports invasive species management and watershed protection with annual funding to strengthen natural resource management, food security, and climate resilience:

- ◆ \$6M annually in general funds to maintain interagency project funding by the Hawai'i Invasive Species Council (HISC) to manage priority invasive species threats on all the islands. Invasive species are a cross cutting issue that threatens the health of Hawai'i's people, economy and ecosystems. They also reduce our ability to withstand impacts from climate change. State leadership and funding are essential for rapid, coordinated and cost-effective response to current and future threats. The recent spread of the Little Fire Ant is just one example of the severe consequences that invasive pest species can have on us all.
- ◆ \$7.5M annually to protect forests that recharge freshwater supplies, reduce climate change impacts such as flooding and other disasters, and provide other benefits to the health of Hawai'i's people and economy. Watershed protection and restoration significantly increases water availability by ensuring that our forests function to effectively absorb rain, deliver it into streams and aquifers, and decrease erosion and siltation, which also benefits our reefs and fisheries. This is especially urgent in the face of climate change and projected long-term decline in rainfall.

SB544 SD1 will help advance action on the *Aloha+ Challenge: A Culture of Sustainability – He Nohona 'Ae'ōia*, a joint leadership commitment to achieve six sustainability targets by 2030 in the areas of clean energy, local food production, natural resource management, solid waste reduction, smart growth and climate resilience, green jobs and education. The *Aloha+ Challenge* was unanimously endorsed by the 2014 Legislature (SCR 69) and signed by Hawai'i's Governor, Mayors and Office of Hawaiian Affairs.

As a partnership representing Hawai'i's leaders in environment, food and energy, HGG asks for your support of **SB 544 SD1**, which is an important investment in Hawai'i's future.

Mahalo,

A handwritten signature in black ink that reads "Audrey Newman". The signature is written in a cursive, flowing style.

Audrey Newman

Senior Advisor, Hawai'i Green Growth (HGG)

Bringing leaders together to achieve sustainability in Hawai'i & be a model for a green economy



SB544 HD1 Proposed

House Committee, FIN
Chair Sylvia Luke
Vice-Chair Scott Y. Nishimoto

Aloha Chair Luke,

I am Garth Yamanaka, Committee chair for Government affairs for the Kanoelehua Industrial Area Association (KIAA). Established in 1968, KIAA is an active business association that is comprised of both small and large businesses and organizations within specific Hilo and Keaau boundaries. One of our goals is to advance the commercial and community interests of our member firms. Presently, we represent approximately 350 business members employing approximately 4,500 workers.

KIAA supports the purpose of this measure which is to rejuvenate areas that have become dilapidated, obsolete, or deteriorated in the Kanoelehua Industrial Area on the Island of Hawaii. The current framework for leasing of public lands in the Kanoelehua Industrial area has created an environment that is sub-par to market expectations. The passing of SB 544 will help to push policy in the right direction as local expertise has an opportunity to weigh in. This community insight will provide transparency along with helping to bridge communication.

We urge you to pass SB 544 and Mahalo for this opportunity to provide testimony.

Mahalo,

Garth Yamanaka

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, April 07, 2015 1:20 PM
To: FINTestimony
Cc: jwmccully54@gmail.com
Subject: Submitted testimony for SB544 on Apr 8, 2015 14:00PM

SB544

Submitted on: 4/7/2015

Testimony for FIN on Apr 8, 2015 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
James McCully	Individual	Support	No

Comments: Aloha Chair Luke SB544 HD1 addresses a long standing need to improve the utilization of developed public lands. Urbanized public lands under a ground lease have failed to meet the public's need as well as the businesses that invest in those lands. The failure has caused immeasurable harm to East Hawaii's economy. A cursory inspection of the resort area on Banyan Drive or the warehouse district known as the KIAA shows the harm that these 'wasting assets ' have caused due to poor management and an antiquated statutory framework. The HD1 version of this bill is a long needed, and necessary, first step in determining how best to allow these lands to be re-developed. I offer my strong support for SB544 HD1. Mahalo James McCully Hilo, Hi 96720 808-933-7000

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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